

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO.25597 of 2001

Between:

Sri D. Laxman Rao S/o Kistaiah, Plot No. 100/A, Janaki Enclave,
Saroornagar, Hyderabad.

..... PETITIONER

AND

- 1 Union of India, Rep. by its Deputy Secretary to Govt. Ministry of
Home Affairs, Freedom Fighters Division, Lok Nayak Bhavan,
Khan Market, New Delhi.
- 2 Govt. of A.P., Rep. by its Prl. Secretary to Govt., Revenue (FF)
Department, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the impugned the action of the 1st Respondent herein in not considering the case of the petitioner for grant of freedom fighter pension as per recommendation made by the 2nd Respondent through his letter No. 29572/FF/A4/90-1 dated 16-1-1990 as illegal, void, abintio and direct the 1st Respondent herein to grant freedom fighter pension to the petitioner under the scheme in light of the 2nd Respondent's recommendation mentioned supra from the date of the petitioner's application in the interest of the justice.

Counsel for the Petitioner: MR.S.CHALAPATHI RAO

Counsel for the Respondent No.1: S.VIJAYA BHARATHI, Central Government

Standing Counsel

Counsel for the Respondent No.2: G.P. FOR HOME

The Court made the following:

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ORDER:

The petitioner claims to be freedom fighter. He alleges that he fought against Nizam government for liberation and merger of Hyderabad into Union of India. After introduction of Swatantrata Sainik Samman Pension Scheme in 1980, he alleged sent representation in February, 2000 along with necessary enclosures claiming freedom fighters pension. According to him, the second respondent also recommended the case vide letter No.29572/FF/A4/90-1, dated 16.01.1990 to the first respondent, in vain. Therefore, he invoked the jurisdiction of this Court seeking a direction to the first respondent to grant freedom fighters pension to the petitioner as per the scheme.

The section officer in the Ministry of Home Affairs has filed a brief counter affidavit stating as under:

That the respondent Union of India has checked its records but it has been found that there is no entry in the records that the petitioner had sent any application to the respondent. In the absence of any such application, there is no question of consideration of the case of the petitioner by the respondent. That as per the Swatantrata Sainik Samman Pension Scheme, 1980 the respondent Union of India can consider his case only if he submits application in the prescribed proforma to the State Government and the State Government sends a verification report that the claimed sufferings are genuine and are supported by the documentary evidence as required under the Swatantrata Sainik Samman Pension Scheme and that the sufferings are for the requisite period as mentioned in the Scheme.

Though the counter affidavit is filed on 17.9.2002, no reply affidavit is filed. As rightly contended by the learned Assistant Government Pleader unless and until the petitioner's application is received by the first respondent through the Office of the second respondent, there cannot be any consideration of the case of the petitioner for freedom fighters pension under Swatantrata Sainik Samman Scheme. As per unrebutted counter averments, the petitioner did not make any representation. He has not sent any application and therefore, there is no question of considering his application for grant of pension.

The writ petition, for the above reasons, is dismissed.

(V.V.S.RAO,J)

28.06.2005

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To

1. The Deputy Secretary to Govt. Ministry of Home Affairs,
Union of India, Freedom Fighters Division, Lok Nayak Bhavan,
Khan Market, New Delhi.
2. The Prl. Secretary to Government of A.P., Revenue (FF)
Department, Secretariat Buildings, Hyderabad.
3. Two CCs to the Government Pleader for Home, High Court
Buildings, Hyderabad. (OUT)
4. Two C.D. Copies.